

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES W.E. ZOLLIECOFFER'EL,)
)
)
Plaintiff,)
)
vs.) **CIVIL NO. 06-1010-GPM**
)
)
ROGER E. WALKER, *et al.*,)
)
)
Defendants.)

MEMORANDUM AND ORDER

MURPHY, Chief District Judge:

Currently pending before the Court is Plaintiff's second motion to reconsider the order denying his motion for leave to proceed *in forma pauperis* in the action because he has accumulated three "strikes" pursuant to 28 U.S.C. § 1915(g). In *this* motion, Plaintiff argues that the three-strikes provision is unconstitutional and that the Court should not apply it against him. Plaintiff is incorrect.

The Seventh Circuit Court of Appeals has held constitutional the three strikes provision of 28 U.S.C. § 1915(g). *See Lewis v. Sullivan*, 279 F.3d 526, 528-29 (7th Cir. 2002). A prisoner who has in the past filed three or more actions that were dismissed as frivolous, malicious, or for failure to state a claim is not precluded from filing suit in federal court. He is precluded only from proceeding in those cases without prepayment of the filing fee. He may still file as many suits as he wishes, provided he pays the filing fee for each action in advance. *See Carson v. Johnson*, 112 F.3d 818, 821 (5th Cir. 1997). Furthermore, it is well-settled that the filing fees themselves pass constitutional muster. *See Lewis*, 279 F.3d at 528-29.

Accordingly, the motion for reconsideration (Doc. 14) is **DENIED**. Plaintiff shall pay the

full filing fee of \$350 for this action within **FIFTEEN (15) DAYS** of the entry of this Order. If Plaintiff does not comply with this Order in the time allotted, this action ***will be dismissed*** for failure to comply with an order of this Court. FED. R. CIV. P. 41(b); *see generally Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994).

IT IS SO ORDERED.

DATED: 09/05/07

s/ G. Patrick Murphy

G. Patrick Murphy
Chief United States District Judge